

## REMARKS

Applicants respectfully traverse the rejection of claims 9 and 59-66 under 35 U.S.C. § 103(a) as being unpatentable over Jpn. J. Appl. Phys., Vol. 31, pp. 2155-64 (1992) ("*Schadt*") in view of U.S. Patent 5,464,669 ("*Kang*.") Applicants disagree with the Examiner's arguments and conclusions. A prima facie case of obviousness has not been established.

"To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)." M.P.E.P. § 2142, 8th Ed., Rev. 2 (May 2004), p. 2100-128.

A prima facie case of obviousness has not been established because, among other things, *Schadt* in view of *Kang* does not teach or suggest each and every feature of Applicants' claims. That is, *Schadt*, taken alone or in combination with *Kang*, fails to teach or suggest "rubbing said first alignment layer such that said first alignment layer has a single pretilt angle associated therewith" and "exposing said second alignment layer to light in an oblique direction to form a plurality of pretilt angles and a plurality of pretilt directions on said second alignment layer, each pretilt angle being controlled by photo-energy," as recited by independent claim 9.

At least one of the essential criteria for establishing a prima facie case of obviousness is not met. The Examiner's citation of *Schadt* in view of *Kang* against Applicants' claims 9 and 59-66 would therefore not be sufficient for the Examiner to establish prima facie obviousness. Thus, claim 9 and 59-66 are allowable. Therefore, the improper 35 U.S.C. § 103(a) rejection of claims 9 and 59-66 should be withdrawn.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: February 7, 2005

By: 

Charles Suh  
Reg. No. 52,259